

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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:  
PATRICIA RANTA, et al., :  
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Plaintiff, : 14-CV-3794 (FB) (LB)  
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:  
V. : November 24, 2020  
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:  
CITY OF NEW YORK, et al., :  
:  
:  
Defendant. :  
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE  
BEFORE THE HONORABLE LOIS BLOOM  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: PETER DEE, ESQ.

For the Defendant: MARK ZUCKERMAN, ESQ.  
BRYAN HA, ESQ.

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1           THE CLERK: Civil cause for telephone status  
2 conference, docket number 14-CV-3794, Ranta v. City of  
3 New York.

4           Will the parties please state your names for  
5 the record.

6           MR. DEE: This is Peter Dee with the law  
7 firm of Mavronicolas & Dee for the plaintiffs.

8           MR. ZUCKERMAN: Mark Zuckerman, office of  
9 the corporation counsel, for defendants City of New  
10 York and Stephen Chmil.

11          MR. HA: Bryan Ha with the Law Office of  
12 Richard Signorelli for defendant Louis Scarcella.

13          THE CLERK: The Honorable Lois Bloom  
14 presiding.

15          THE COURT: Good afternoon, Mr. Dee, Mr.  
16 Zuckerman, and Mr. Ha. This is a telephone conference  
17 in plaintiff's civil rights action. I hate to say it  
18 but it feels like the parties here are never going to  
19 get anything done and we're going to be stuck in this  
20 vortex of fighting about almost everything in the case.  
21 This conference is to resolve the dispute regarding the  
22 protective order. Defendants want a protective order  
23 prohibiting the use of records from the underlying  
24 criminal case outside of this litigation, and  
25 plaintiffs will not agree.

1           Mr. Dee, I have said all along that they're  
2 going to want something in place before they start  
3 turning over other records. It's unclear to me, sir,  
4 what Mr. Ranta's position is because you don't remember  
5 Mr. Ranta. Okay, he signed a release and that enables  
6 you, on behalf of his former spouse, plaintiff Patricia  
7 Ranta, and his two children, Nicholas and Priscilla  
8 Ranta, to get the records so you can try to make your  
9 claim that this was negligent infliction of emotional  
10 distress, that it was loss of consortium as to Patricia  
11 Ranta, and that these two officers should not have been  
12 hired and that it was negligent on the City to keep  
13 them on or to hire them in the first place, that there  
14 was no training.

15           MR. DEE: Correct.

16           THE COURT: So I don't really get why I'm  
17 dealing with David Ranta. I don't have anything to do  
18 with David Ranta and you shouldn't have anything to do  
19 with him, either. And if you want to represent him in  
20 a separate proceeding, that's fine, but he's not in  
21 this proceeding. So why am I hearing that you have to  
22 turn these documents over to him? That's not what he  
23 signed. He signed something giving you authority to  
24 get these documents for the purpose of the case against  
25 Patricia -- the case where you're representing

1 Patricia, Nicholas, and Priscilla.

2 MR. DEE: Yes. He's authorized me to act as  
3 his agent in order to get those documents, to which  
4 he's entitled.

5 THE COURT: But he's not party to this case,  
6 sir.

7 MR. DEE: That's correct, and I submitted  
8 the authorization through a FOIA request, actually, not  
9 even through anything technically connected with this  
10 case. So when I informed him, after our conversation  
11 with the D.A. which Mr. Zuckerman arranged, the D.A.  
12 informed us that the records that David Ranta's prior  
13 lawyer had received with his own authorization was a  
14 more limited set of documents than what we will expect  
15 to receive. And when I informed Mr. Ranta of that, he  
16 said, well, I want copies -- I want copies. He wants  
17 to see what's new in his record that's now being turned  
18 over that wasn't turned over before.

19 THE COURT: That's fine, but he can file his  
20 own separate case. I don't have him in this case. So  
21 I understand that he signed a release and from what I  
22 understand, the law has changed, which is why his  
23 lawyer did not get everything that they may produce to  
24 you. But unless you're representing him in some  
25 capacity, I shouldn't be dealing with David Ranta.

1 He's not part of this case.

2 Mr. Zuckerman, the City settled the case  
3 with Mr. Ranta. I don't know if there were any  
4 provisos in that case that he had to keep anything  
5 confidential. So I don't understand why the City is  
6 expecting me to deal with David Ranta in this case,  
7 where he's not a party.

8 MR. ZUCKERMAN: Well, your Honor, as you  
9 ruled I believe at the last conference that these  
10 documents --

11 THE COURT: I did not rule. I did not rule.  
12 I say that generally speaking, parties enter into  
13 confidentiality agreements, which means that they're  
14 only going to exchange documents for the purpose of  
15 this litigation, and that they agree that they're not  
16 going to do anything with those documents like put them  
17 on the internet. But Mr. Dee is not saying he's going  
18 to put them on the internet and Ms. Priscilla,  
19 Nicholas, and Patricia Ranta aren't saying they're  
20 going to put them on the internet.

21 MR. ZUCKERMAN: Well, we don't believe that  
22 a 160.50 release that was provided to the Kings County  
23 D.A. for use in this case should be used as a funnel of  
24 documents that are produced in this case by Mr. Dee to  
25 David Ranta, who is a nonparty. I mean, it's just not

1 appropriate.

2 THE COURT: So if David Ranta wants to apply  
3 -- excuse me. If David Ranta wants to apply for those  
4 documents, he'll be entitled to them, won't he?

5 MR. ZUCKERMAN: I don't know what objections  
6 if any the Kings County D.A. may have but that's not  
7 what's being dealt with in this case.

8 THE COURT: I agree with you that that's not  
9 what I need to deal with in this case, but that's what  
10 both sides are presenting to me as the dispute here.

11 So, Mr. Dee, I do believe you're entitled to  
12 get documents and I do believe that the documents  
13 should be produced to you, and I do believe that your  
14 clients have gotten permission from David Ranta to get  
15 those documents.

16 MR. DEE: Correct.

17 THE COURT: What else is it that I need to  
18 discuss about Priscilla, Nicholas, and Patricia Ranta,  
19 because as to David Ranta's rights, unless you  
20 represent him in this matter, I don't know what his  
21 rights are just because he signed something saying that  
22 you are authorized as his agent to get these records.

23 MR. DEE: Well, as his agent, he's asked me  
24 to give him copies of the records and it's his -- as we  
25 discussed at the last conference, the whole purpose

1 about sealing this is to protect him, not the City --

2 THE COURT: I understand that but he's not a  
3 plaintiff before the Court and you're asking me to  
4 make --

5 MR. DEE: I understand, your Honor.

6 THE COURT: You're asking me to make a  
7 determination on whether or not he's entitled to  
8 documents, where I do not have him as a party to this  
9 litigation. Why don't you file a separate matter for  
10 him and you could duke it out with the defendants. If  
11 this was a FOIA request, that's state law, it's not  
12 even federal law. FOIA is a state law. So if he  
13 wanted the same documents that are being produced to  
14 you as counsel to his ex-wife and children, he may be  
15 entitled to them, but I don't know that he has to get  
16 them through this case. He authorized you as his agent  
17 to get those disclosures for this case, Mr. Dee.

18 MR. DEE: Correct, but he also asked for a  
19 copy, which he's entitled to, of the documents through  
20 me as his agent, and I submitted the request as a FOIA  
21 with the authorization attached. I didn't even  
22 reference this case necessarily. So the issue of him  
23 signing the form and me submitting it to the D.A.'s  
24 office, that really is outside of this case. The D.A.  
25 is treating it as though it's a subpoena response

1 according to them but technically, it's a FOIA request  
2 that I submitted with the proper authorization. If the  
3 D.A. wants a protective order, they can seek one in  
4 state court as you note.

5 But part of the scope of my agency as the  
6 recipient of those documents is to give a copy to him  
7 and he can do with them, as his documents, what he  
8 wants. And as I mentioned to Mr. Zuckerman, if he  
9 wanted to put some things on the internet, I can't stop  
10 him from doing that. These are his -- these are  
11 technically his documents so I don't understand why we  
12 to have some specific details of confidentiality and  
13 use of those documents in an order in this case, where  
14 really it's up to him what he wants to do with those  
15 documents. And what the City is really trying to do  
16 here is limit the use of these documents in a way that  
17 will curtail me and David Ranta potentially in the  
18 future for whatever else he might want to use them for,  
19 and I don't think that's appropriate.

20 THE COURT: I have no interest in curtailing  
21 David Ranta. He is not a party to this action. I do  
22 believe that under ordinary circumstances, when a case  
23 is filed, and it could be an employment case, and there  
24 are going to be records turned over of other people who  
25 worked for the employer, there's going to be a



1 protective order, which I generally oversee and I get  
2 it to be mutual.

3           So for instance, Patricia Ranta is having to  
4 turn over records regarding her medical and mental  
5 health treatment, so I wouldn't want the defendants to  
6 be able to use that for any other purpose. So the  
7 protective order would protect Ms. Ranta's rights  
8 regarding her medical records, which she had to sign a  
9 release in order for those records to be used in the  
10 case. So I understand what you're saying to me but how  
11 do we resolve this?

12           And, Mr. Zuckerman, I do believe that Mr.  
13 Dee's point is well-taken, that there is a state law  
14 process for you to try to stop David Ranta from using  
15 these documents. I don't know what you're going to  
16 claim as the basis since I do believe Mr. Dee has  
17 correctly stated the purpose of the law is to seal the  
18 documents to protect the person who was wrongly  
19 convicted. And since the City already settled this  
20 case that Mr. Ranta brought, I'm not interested in  
21 dealing with David Ranta's claim and the City's  
22 reluctance to turn over documents in his ex-wife's  
23 case. I don't think you've given me any law. I do  
24 understand that you made some progress, that the Kings  
25 County D.A. said they've produced the disks that had

1 previously been produced to Pierre Sussman (ph) and  
2 that that would be produced within two weeks.

3 Was that already done, Mr. Dee?

4 MR. DEE: No. By the way, Mr. Zuckerman  
5 informed them not to produce the documents until this  
6 issue was resolved between us and the Court and I take  
7 issue with that.

8 MR. ZUCKERMAN: I asked them to wait until  
9 we get a ruling on the confidentiality part of this so  
10 we have a ruling before they do it, but they're ready  
11 to turn them over.

12 THE COURT: Again, your letter to me said  
13 that they were going to produce it within two weeks,  
14 and that letter was sent to me on November 10<sup>th</sup>, and I  
15 do believe we're two weeks past that date. Look, I  
16 don't want you to play this on both sides, Mr.  
17 Zuckerman. That does nothing for us, all right? You  
18 have this situation. I understand the City and the Law  
19 Department's position but I do not have a case where  
20 David Ranta is at issue. He is not part of this case.  
21 He's already signed a rehearse. That release was to  
22 make Mr. Dee his agent, and I don't understand why I am  
23 being called upon to deal with somebody who is a  
24 nonparty who has a right to those records.

25 MR. ZUCKERMAN: Your Honor, I don't believe

1 he has a right to those records through this  
2 proceeding. The last time we met, we talked about a  
3 resolution where the Kings County D.A.'s office was  
4 going to turn over documents to Mr. Dee to be produced  
5 to us as part of this case and for the purposes of this  
6 litigation. There was nothing about documents going to  
7 David Ranta. If David Ranta wants these documents, he  
8 should submit a proper request, either in --

9 THE COURT: He did, he did, he did.

10 MR. DEE: He did. He did through me.

11 THE COURT: Through Mr. Dee.

12 MR. DEE: Exactly. Your Honor --

13 THE COURT: He filed a FOIA request through  
14 Mr. Dee. Mr. Dee filed it on his behalf.

15 MR. DEE: And if I -- and what we should put  
16 in this protective order is that the defendants, when I  
17 turn it over to them, analogous to the plaintiff's  
18 medical records, are bound to the confidentiality. If  
19 David Ranta decides he wants to do something or  
20 instructs me to do something outside of this case with  
21 respect to those records, that's his choice.

22 THE COURT: I don't agree with you there  
23 because, again, I don't really understand why David  
24 Ranta -- are you representing him?

25 MR. DEE: Only in so far as I'm the agent to

1 receive these records for him.

2 THE COURT: Well, again, if you're the agent  
3 to receive the records and you're receiving the records  
4 on behalf of his former spouse and his children, then  
5 you can be subject to a mutual confidentiality order  
6 for the purpose of this proceeding. But that doesn't  
7 tie David Ranta's hands because he's not a party to  
8 this proceeding.

9 And if he is somebody who is entitled to  
10 these documents, Mr. Zuckerman, then I don't know what  
11 the City expects the Court to do. The FOIA law says  
12 that somebody has the right to get their documents in  
13 their underlying criminal case where that criminal case  
14 has been sealed for their protection. So he's entitled  
15 to these documents.

16 MR. ZUCKERMAN: Your Honor, the FOIL -- a  
17 FOIL request is different from the scope of documents  
18 that would be produced in this litigation, and it was  
19 the Kings County D.A.'s understanding from the last  
20 conference that these documents were being turned over  
21 for use in this litigation. It wasn't -- these  
22 documents are not being produced in response --

23 THE COURT: Mr. Zuckerman, I've never had  
24 the Kings County D.A. on the line, I've only had you on  
25 the line. So when you're telling me that it was their

1 understanding, we're talking about the game of  
2 telephone here because I've never had the Kings County  
3 D.A. come on the line. And if they wanted to be an  
4 interested party and give me case law to support their  
5 position, they were entitled to do that. But instead,  
6 you keep writing letters to me as if I've already ruled  
7 on this.

8 I have not, and you're not supplying me with  
9 anything other than the argument that they shouldn't  
10 have to turn over documents to David Ranta. I'm not  
11 turning documents over to David Ranta. Mr. Dee has  
12 gotten him to sign a release, which is a 160.50  
13 release, so I don't know why you're saying it isn't.

14 MR. ZUCKERMAN: All I'm saying is that a  
15 response to a FOIL request will necessarily involve  
16 different documents than documents that are being  
17 produced in this litigation. All I'm saying is that  
18 the Kings County D.A. has not responded to the FOIL  
19 request of Mr. Dee that he's apparently making on  
20 behalf of Mr. Ranta. They're two different things.

21 THE COURT: And when I tell you that Mr. Dee  
22 has gotten Mr. Ranta to sign a CPL 160.50 release, can  
23 we agree that that has happened?

24 MR. ZUCKERMAN: Yes.

25 THE COURT: So maybe there's a FOIA request

1 that's separate and apart but that CPL 160.50 provides  
2 that sealed records shall be made available to the  
3 person accused or to such person's designated agent.  
4 Isn't that correct?

5 MR. ZUCKERMAN: I would disagree. An  
6 unsealing release just unseals documents. It doesn't  
7 indicate the scope of the documents that have to be  
8 produced.

9 THE COURT: Do I have to go back and pull  
10 the 160.50 release? I think I'm quoting from the  
11 actual form 160.50 release: "That the sealed records  
12 shall be made available to the person accused or to  
13 such person's designated agent."

14 MR. ZUCKERMAN: There still has to be a  
15 subpoena or a document request or a FOIL request,  
16 depending on the type of proceeding in which the  
17 unsealing release is being provided.

18 THE COURT: Mr. Zuckerman, you are going  
19 around and around and around in circles. Mr. Dee has  
20 produced an unsealing request signed by David Ranta.  
21 Mr. Dee is entitled to those records. You are saying  
22 unless he signs something, the Brooklyn D.A. doesn't  
23 want to give him the records, but you've given me no  
24 basis for withholding those records.

25 MR. ZUCKERMAN: I'm not trying to have the

1 Kings County D.A. withhold the records. I'm saying  
2 those documents should not be funneled by Mr. Dee to  
3 David Ranta, and then he's going to put them on the  
4 internet and somehow we're barred by responding. I  
5 mean, that's not appropriate.

6 THE COURT: Why are you barred -- why are  
7 barred by -- what is barred by responding? You want to  
8 go on the internet, too? You can go on the internet.

9 MR. ZUCKERMAN: Not really but --

10 THE COURT: I'm not -- I'm not preventing  
11 you. But all I'm saying is, I cannot govern Mr. David  
12 Ranta and I cannot say to Mr. Dee that if Ranta signed  
13 this and if 160.50 provides that the sealed records  
14 shall be made available to the person accused or to  
15 such person's designated agent, it covers David Ranta.  
16 Doesn't that sound reasonable to you, Mr. Zuckerman?

17 MR. ZUCKERMAN: Well, there still has to be  
18 either a proper mechanism for --

19 THE COURT: What is the proper mechanism,  
20 sir? You're really driving me a little bit crazy.  
21 What's the proper mechanism? He did a FOIA request.  
22 You're saying it's not that. He did a 160.50 rehearse.  
23 You're saying it's not that. What is the proper  
24 mechanism.

25 MR. ZUCKERMAN: I mean, it's a request -- I

1 mean, the proper mechanism is actually a subpoena but  
2 the Kings County D.A. agreed to produce these documents  
3 without a subpoena.

4 MR. DEE: I'll be submitting a subpoena as  
5 well just so we don't have this dispute later. I'll do  
6 a subpoena, I've already done the FOIA request, I've  
7 got the release. If the D.A. wants to designate  
8 certain documents confidential or file their own motion  
9 for a protective order, I'd be happy to address that,  
10 but this is just undue delay. It's been six years  
11 since we filed this case, it's been about thirty years  
12 since David Ranta was put in jail. It's too much, and  
13 we're not going to allow the City to take little  
14 shortcuts here to try and get some other objective. I  
15 mean, this is not how this should be done.

16 THE COURT: Mr. Dee, I mostly agree with  
17 that you're saying but I also have an issue with -- I  
18 don't have David Ranta in this case. I have no way of  
19 controlling David Ranta's behavior. But I also  
20 understand that if he's not a plaintiff in this case  
21 and the people that you do represent have some sort of  
22 -- I wouldn't say it's a conflict but they have very  
23 different interests and claims here. You're not saying  
24 that Patricia Ranta or Priscilla Ranta or Nicholas  
25 Ranta want to put these things on the internet.



1           MR. DEE: I'm not saying anybody does. I'm  
2 just saying if David gets these documents, I don't want  
3 to have him be bound by a confidentiality order that  
4 doesn't let him use them how he would otherwise be  
5 authorized to use them, as someone who was wrongfully  
6 framed and put in jail for 25 years. If he wants to  
7 put these things --

8           THE COURT: Again, I do not have David Ranta  
9 in front of me so I would not enter into any sort of  
10 order where David Ranta's conduct is the subject. He  
11 is not a party to this action.

12           MR. DEE: Exactly, your Honor. All I would  
13 ask is that we require the defendants to maintain a  
14 confidentiality of those unsealed documents, just like  
15 they would of plaintiff's medical authorizations. My  
16 agency to deal with these documents for David is  
17 between myself and him. If I abuse that agency to him,  
18 he has his proper methods to deal with that. It's not  
19 for the City to try to curtail how -- you know, the  
20 scope of that agency or what he might do with those  
21 documents.

22           THE COURT: Mr. Zuckerman, I don't find that  
23 there's any basis that's been presented to the Court  
24 which would authorize the withholding of the documents  
25 that were supposed to be turned over. That was just

1 the first production of disks pursuant to the FOIL  
2 request. You say that the remainder of the responsive  
3 documents that are not privileged are going to be  
4 produced in February and there will be a privilege log.  
5 So, you know, again, it said, counsel for all parties  
6 met telephonically with a representative of Kings  
7 County D.A.'s office and accepted this approach.  
8 That's what should have happened. You should have  
9 turned over those disks of the documents previously  
10 produced.

11 And as to any of the new documents, you have  
12 your method here. You can claim that there's a  
13 privilege and produce a privilege log or you'll turn  
14 them over in February, 2021. I don't understand why  
15 I'm being asked over and over again, Mr. Zuckerman, to  
16 decide something that I've already told you -- I don't  
17 have David Ranta, Mr. Dee is entitled to get these  
18 documents. And if you want an order saying unless  
19 they're turned over within X period of time, it's going  
20 to be on the City, not on the D.A. because, again, I  
21 don't have Mr. Ranta before me.

22 There is nothing in 160.50 that says I must  
23 get Mr. Ranta to sign something saying he's only going  
24 to use them for this litigation. He's not in this  
25 action, he's not before the Court. We both need,

1 meaning plaintiff and defendant in this case both need  
2 the records in order to litigate this case. I gave you  
3 time when the case first was called to see if the City  
4 wanted to settle the case.

5 The City obviously didn't put anything on  
6 the table that the Ranta children and wife wanted, ex-  
7 wife wanted, and so here we are. And you were supposed  
8 to turn them over by your own words by today. Mr.  
9 Zuckerman, those are going to be produced tomorrow, by  
10 the 25<sup>th</sup>, by 5:00 on the 25<sup>th</sup>.

11 MR. ZUCKERMAN: It's my understanding --  
12 assuming they're in tomorrow at the Kings County D.A.,  
13 I'll contact them today and tell them to mail it but --

14 THE COURT: I thought you said that they  
15 were going to be produced within two weeks. That was  
16 the agreement back in October.

17 MR. ZUCKERMAN: Yeah, but then we had this  
18 dispute over the confidentiality so I requested in the  
19 letter that that be extended. I mean, Mr. Dee is still  
20 claiming we're under a confidentiality -- we're bound  
21 by confidentiality when he's not. I mean, it doesn't  
22 make any sense.

23 THE COURT: What are you talking about? Did  
24 anybody sign anything about confidentiality? He  
25 doesn't want you to use his client's medical records.

1 That would be his interest in getting a confidentiality  
2 agreement. And perhaps Patricia, Priscilla, and David  
3 have no problem saying that they will keep this records  
4 confidential. That would be fine with me.

5 MR. ZUCKERMAN: I'm talking about the Kings  
6 County D.A. documents. Mr. Dee says we're under an  
7 obligation to keep them confidential and David Ranta  
8 can go on the internet and use them for any purpose he  
9 wants.

10 THE COURT: I don't know why he's saying  
11 that.

12 Mr. Dee, if there's no confidentiality order  
13 in place, why do you think they have a duty to keep  
14 them confidential?

15 MR. DEE: I think there should be a  
16 confidentiality order in place with respect to the  
17 defendant's use of these unsealed documents.

18 THE COURT: What's good for one side is good  
19 for the other side. If there's going to be a  
20 confidentiality provision, it's going to cover the  
21 three plaintiffs that you represent as well as the  
22 defendants.

23 MR. DEE: That's okay, but I've also got to  
24 be able to give the documents to Mr. David Ranta and he  
25 should not be encumbered with how he uses them.

1           THE COURT: He's not a plaintiff here so I  
2 wouldn't say that I could insist that David Ranta would  
3 do anything. He's not a plaintiff.

4           MR. DEE: Or that I could not transmit them  
5 to him. I think that's --

6           THE COURT: I'm not saying -- I'm not saying  
7 any of that. You were his agent for purposes of the  
8 release. I understand what their concern is but David  
9 Ranta is a free agent. He should have been able to get  
10 these from Pierre Sussman but I understand that there  
11 may be more records that have become available because  
12 of a change in the law, and that's something that the  
13 D.A.'s office and the City is going to have to live  
14 with. But I do not have David Ranta in this lawsuit.

15           I understand that he has signed a CPL 160.50  
16 release that provides that the sealed records  
17 underlying his criminal court case shall be made  
18 available to him or to his designated agent, who is  
19 you, Mr. Dee. I am not ruling that you cannot give  
20 these cases (sic) to David Ranta because I think CPL  
21 160.50 on the face of it provides that he's entitled to  
22 these records.

23           MR. DEE: But I would also make one  
24 additional point, that if David Ranta and I go through  
25 these records, we talk about witnesses that were used

1 in different cases, there may be things that we're  
2 looking at these documents or talking to certain  
3 witnesses in there that aren't necessarily for this  
4 case. And if he authorizes me or wants me to do that  
5 or we come to some agreement on that, I don't want to  
6 be bound by a limitation in a confidentiality order in  
7 this case as to what I might be able to do with or on  
8 behalf of Mr. David Ranta in the future unrelated to  
9 this case. That's my main issue, in addition to  
10 preventing from David Ranta from doing anything on his  
11 own, as of his own right.

12 THE COURT: Again, I do not have David Ranta  
13 in this case. Mr. Dee, usually, a confidentiality  
14 order is protecting the documents that are exchanged in  
15 discovery, saying that the plaintiffs will not use it  
16 for any other purpose. It doesn't usually deal with  
17 the lawyers because the lawyers have all sorts of  
18 ethical obligations by virtue of them being officers of  
19 the Court.

20 MR. DEE: Exactly. Okay, that's fine with  
21 me.

22 THE COURT: Well, I don't know what you're  
23 saying is fine with you. Both sides have taken what  
24 I've said in prior conferences and, in their own mind,  
25 think that it supports their version of what should

1   happen in this case.

2               Look, Mr. Zuckerman, I understand it's a  
3   holiday. I don't want to make your life or the Kings  
4   County D.A.'s life more miserable. I'll tell you to  
5   produce by the 1<sup>st</sup>, which is Tuesday. It gives you an  
6   extra several days. But that should be the disks --  
7   listen, sir, don't start mailing them by regular mail.  
8   If you need to get something there, you know how to  
9   overnight mail it.

10              Where is it that it should be sent, Mr. Dee,  
11   because I don't want them sending it to an office that  
12   you no longer go to.

13              MR. DEE: I can have -- I can send an  
14   address to Mr. Zuckerman.

15              THE COURT: Mr. Zuckerman, the Kings County  
16   D.A. is going to have to turn over these records, and  
17   you're coming up with reasons why it wasn't done right,  
18   and Mr. Ranta has a right to those records. He signed  
19   a 160.50 release. The Court is directing you to turn  
20   over the documents. Have I made myself clear?

21              MR. ZUCKERMAN: Absolutely. I just have a  
22   question about the confidentiality, that defendants are  
23   not under any confidentiality agreement --

24              THE COURT: Did anybody sign a  
25   confidentiality agreement?

1 MR. ZUCKERMAN: No.

2 MR. DEE: No.

3 MR. ZUCKERMAN: But Mr. Dee has requested  
4 that.

5 THE COURT: Yes, but --

6 MR. DEE: Before I turn over the documents  
7 to the defendants, we will have to sign something about  
8 that.

9 THE COURT: Well, both sides are going to  
10 have to make arrangements. When you say before I turn  
11 over documents to the defendants, you're talking about  
12 the medical records.

13 MR. DEE: And the documents that the D.A.'s  
14 office might turn over because the defendants --

15 THE COURT: Again, you can't hold them to  
16 confidentiality if you're not going to have any  
17 reciprocal obligation.

18 MR. DEE: Well, I will agree that on behalf  
19 of the plaintiffs, we can make that reciprocal  
20 obligation. But as the Court noted -- as your Honor  
21 noted, as an officer of the Court, as an agent, as  
22 David Ranta's agent, that's outside of the scope of  
23 this case. But for the plaintiffs themselves, I can  
24 agree to that.

25 THE COURT: So that's what you need to do,



1 Mr. Zuckerman. You need to get Patricia Ranta,  
2 Priscilla Ranta, and Nicholas Ranta an agreement in  
3 place with Mr. Dee. But as far as Mr. Dee being an  
4 agent for David Ranta for the purpose of the 160.50  
5 release, I don't think that you can bind him as an  
6 attorney from giving those documents over to David  
7 Ranta, and you've provided no legal support for your  
8 position that he should be bound by some  
9 confidentiality provision. There's been nothing --

10 MR. ZUCKERMAN: But we're not bound -- but,  
11 your Honor, we shouldn't be bound either then. I mean,  
12 he can't bind us -- if Mr. Dee isn't going to be bound  
13 by a confidentiality agreement, as your Honor I think  
14 stated, we shouldn't be bound by it, either.

15 MR. DEE: Your client should be.

16 THE COURT: He said that he could agree on  
17 behalf of his clients, who are the plaintiffs in this  
18 lawsuit. He said that he will agree to keep the  
19 records confidential for the purpose of Patricia,  
20 Priscilla, and Nicholas Ranta's lawsuit, and that he  
21 wants you to agree to do the same. That has nothing to  
22 do with David Ranta.

23 MR. ZUCKERMAN: Well, I think it does  
24 because they're not keeping the records confidential by  
25 giving it to David Ranta.

1 THE COURT: They are not.

2 MR. ZUCKERMAN: If they're giving it to  
3 David Ranta --

4 MR. DEE: They're his records.

5 THE COURT: They are not.

6 MR. DEE: They're his records.

7 THE COURT: Mr. Dee as his authorized agent  
8 is able to do that. Whether the City likes it or not,  
9 that's what David Ranta did. He authorized not the  
10 City but Mr. Dee to get those records. That's what he  
11 did. I know the City wanted it to be that the City was  
12 authorized by David Ranta. That's not what happened.  
13 David Ranta authorized Mr. Dee. So Mr. Dee is  
14 authorized to get those records and he's authorized to  
15 give them to Mr. David Ranta, and the City will also  
16 get a copy of those records. But when you say you  
17 don't want the City to be bound by any confidentiality,  
18 what does that possibly mean, Mr. Zuckerman?

19 MR. ZUCKERMAN: Well, all it means is --

20 THE COURT: You don't want him to give you  
21 the records because you're not going to agree to keep  
22 them confidential, and Mr. Ranta is only authorizing  
23 Mr. Dee to get those records for the purpose of  
24 Patricia, Nicholas, and Priscilla's case? So you want  
25 him to get those records and use them but not give them

1 to the City?

2 MR. ZUCKERMAN: No. I'm saying that if  
3 David Ranta is going to go on the internet or be  
4 interviewed on t.v., whatever he decides to do, it's  
5 standard in confidentiality agreements that we should  
6 be able to respond if we choose. I'm not saying we  
7 would but if we choose.

8 THE COURT: If you want to respond to what?

9 MR. ZUCKERMAN: To whatever David Ranta does  
10 with these documents.

11 THE COURT: And what am I tell you you can't  
12 respond to?

13 MR. ZUCKERMAN: Well, if we're under a  
14 confidentiality agreement, then we can't respond.

15 THE COURT: Look, sir, these records were  
16 unsealed and are being given to Mr. Dee. They must be  
17 given by -- the first production has to be by December  
18 1<sup>st</sup>. Have I made myself clear? That will be in bright  
19 prose in my order so that it's not a week from or two  
20 weeks from, by December 1<sup>st</sup>, and that you should make  
21 arrangements to get them to Mr. Dee, wherever Mr. Dee  
22 is directing you to get them to him. And as far as the  
23 City wanting Mr. Ranta to keep them confidential, I  
24 have no control over David Ranta. He's not a party to  
25 this action and he doesn't have to agree to keep these

1 documents confidential. This law was put in place to  
2 protect his records, not to protect the City.

3           So I do think it's in your interest, Mr.  
4 Dee, and your interest, Mr. Zuckerman -- and, Mr. Ha, I  
5 know you'll go along with however this goes -- to  
6 negotiate some sort of mutual protective order because  
7 I know that Patricia Ranta doesn't want her mental  
8 health or doctors' records to be used for any purpose  
9 other than this litigation. And as long as Patricia,  
10 Priscilla, and Nicholas can agree that they won't use  
11 what is being released by David Ranta for any other  
12 purpose, that does not tie Mr. Dee's hands. Mr. Dee  
13 was the authorized agent to get these. I don't expect  
14 that Mr. Dee will be posting them anywhere. I imagine  
15 he'll just give them to David Ranta and that will be  
16 what he's been authorized to do.

17           MR. HA: Judge, I just have one concern.

18           THE COURT: This is Mr. Ha?

19           MR. HA: Yes, Judge. I just have one  
20 concern. The parties have been trying to negotiate a  
21 stipulation protective order. In addition to this  
22 issue of the confidentiality of David Ranta's criminal  
23 records, there are also other issues in dispute that's  
24 sort of holding up the agreement. The concern I have  
25 is, if the agreement is being held up, that's going to

1 delay us getting the records.

2 THE COURT: What are the other issues? All  
3 I keep getting are the same issues. I keep getting the  
4 same issues. I know that there is a medical release  
5 issue. I think that that was already done, right? Mr.  
6 Dee provided releases for eight providers, so that's  
7 done. There's a confidentiality issue and I brought up  
8 that we cannot hold David Ranta to confidentiality.  
9 He's not a party to this case. He has a right to his  
10 own sealed records and that Mr. Dee may provide those  
11 records to him because he was designated as David  
12 Ranta's agent.

13 MR. HA: There are other issues that --

14 THE COURT: What is it that you're speaking  
15 to, Mr. Ha?

16 MR. HA: One other issue is the  
17 confidentiality of police disciplinary records. Mr.  
18 Zuckerman had made a proposal, I think it was late last  
19 week, to resolve this and maybe he can speak directly  
20 to that, but we have not been able to resolve that.

21 THE COURT: Mr. Zuckerman, there's nothing  
22 in your papers about it. Do you want to brief it for  
23 me?

24 MR. ZUCKERMAN: Yes, I'd like to brief the  
25 confidentiality issues.

1           THE COURT: Not of everything because I am  
2 ordering you to produce those records that you were  
3 supposed to produce within two weeks, as of your  
4 November 10<sup>th</sup> letter, which is document 74. Those will  
5 be produced on December 1<sup>st</sup>. If you want to brief  
6 something for me about the disciplinary records, you  
7 can do that by Friday, December 4<sup>th</sup>, and it better have  
8 case law support for it, not just be, we don't want to  
9 turn over these records. And the way I understand it,  
10 50(h) has now been changed by the state and so records  
11 should be made available.

12           MR. HA: Would it be possible, Judge, if  
13 your Honor is directing the parties in this case, the  
14 plaintiff and defendants, to keep David Ranta's  
15 criminal records only for use in this case confidential  
16 and only to be used in connection with this case, that  
17 if we the understanding, then Mr. Dee, once he gets the  
18 records from the D.A.'s office, can just go ahead and  
19 provide us with copies while we wait to have the other  
20 issues resolved.

21           THE COURT: That's what I expect Mr. Dee to  
22 do. I'm telling the D.A. that they have to get them to  
23 Mr. Dee by the 1<sup>st</sup>. And if there are other issues  
24 regarding records that you want the Court to address,  
25 you should not raise it orally when you've give me

1 nothing to support any argument that there are other  
2 issues here. We had the medical record releases.  
3 That's been done. There's a disagreement about the  
4 discovery schedule. Defendants think it shouldn't  
5 begin until there's a confidentiality stipulation.

6 I don't see that, Mr. Zuckerman, in the  
7 rules anywhere. So I think that you are dragging your  
8 feet a bit, Mr. Zuckerman, and I'm not going to let  
9 that happen. I want you to move on this. I want the  
10 D.A. to turn over what was supposed to be turned over  
11 within two weeks by December 1<sup>st</sup>. Make sure you have  
12 the right address for Mr. Dee.

13 As far as the medical releases and the  
14 confidentiality, I believe that Priscilla, Nicholas,  
15 and Patricia might be willing and should be willing,  
16 because they want their own medical records to be kept  
17 confidential -- but I'm not going to take this on the  
18 fly, just you give me letters, you don't follow up with  
19 the letters, meaning it was supposed to be done. The  
20 production on disks of the documents previously  
21 produced to Ranta's attorney were supposed to be  
22 produced within two weeks of the November 10<sup>th</sup> letter.  
23 That would be today. It isn't happening. I'm giving  
24 you until December 1<sup>st</sup> to do that.

25 I am directing you, Mr. Dee, to go back to

1 the table with Mr. Zuckerman and Mr. Ha because you're  
2 going nowhere fast here. I won't let them stonewall  
3 you and I won't let them bully you into signing  
4 something where you can't give these records to Mr.  
5 Ranta because I don't think the law provides for that,  
6 but you do need to protect your own clients' records  
7 and you do need to speak to your clients because David  
8 Ranta is not your client, about trying to get something  
9 resolved here so you can move past this.

10 MR. DEE: We will do so, your Honor. I  
11 think Mr. Ha's point -- I agree with that. Once the  
12 D.A. turns over the documents on December 1<sup>st</sup>, the  
13 unsealed documents, I'll gladly share them with the  
14 defendants right away, as long as they agree to hold  
15 them in confidence until we agree or the Court orders  
16 with respect to the confidentiality.

17 THE COURT: But, again, your clients,  
18 meaning Priscilla, Nicholas, and Patricia, have to be  
19 part of this.

20 MR. DEE: Yes, yes, that's agreed.

21 MR. ZUCKERMAN: Your Honor --

22 THE COURT: If there's going to be -- if  
23 there's going to be a motion made, if you're going to  
24 brief a motion, I want you serve it by next Friday, Mr.  
25 Zuckerman. All I've gotten are letters and the letters



1 cite not a single case. So if you're trying to tell me  
2 that I have a duty to do something in this case, I  
3 would like you to give me some case law support from  
4 the Second Circuit for what it is you're proposing.  
5 And if you don't have that, then don't make -- don't  
6 make the request.

7 MR. ZUCKERMAN: Your Honor, there are a lot  
8 of district court cases on that 50(a) issue.

9 THE COURT: No, it's changed, sir, because  
10 there's been new legislation.

11 MR. ZUCKERMAN: And judges have ruled on it  
12 and ruled that it doesn't change the fact that federal  
13 law and the Federal Rules of Civil Procedure --

14 THE COURT: That's good. Then you'll be  
15 able to provide me with case law support, but I'm not  
16 doing this on the fly, when you bring up nothing about  
17 it in your letters to the Court. So if you want to  
18 brief the issue, by next Friday. And by next Tuesday,  
19 you'll produce to Mr. Dee the documents that were  
20 referred to in the November 11<sup>th</sup> letter.

21 Is there anything else today, Mr. Dee,  
22 before we adjourn?

23 MR. DEE: Not for plaintiffs, your Honor,  
24 thank you.

25 THE COURT: Again, Mr. Dee, you're playing

1 in a dangerous spot here because you don't represent  
2 David Ranta. I understand that you're the agent that  
3 was made in the 160.50 designation but I am saying you  
4 want to move along the case of Priscilla, Nicholas, and  
5 Patricia, and these issues are not helping us move  
6 along the case.

7 MR. DEE: They are not but I cannot let the  
8 City dictate to do whatever they want just because we  
9 want to resolve this case, either. So I appreciate  
10 that but they have been informed every step of the way  
11 of what's going on.

12 THE COURT: Well, I'll appreciate you trying  
13 to work out the issue regarding the disciplinary  
14 records with Mr. Ha and with Mr. Zuckerman, and maybe I  
15 won't have to decide the issue. Maybe the parties  
16 could agree, okay?

17 MR. DEE: Understood, your Honor.

18 THE COURT: Okay. So it's a direct order of  
19 the Court, Mr. Zuckerman, that the D.A. will produce  
20 those records by the 1<sup>st</sup>, and you should find out where  
21 Mr. Dee wants them to be sent, and they should not be  
22 sent snail mail. They should either be overnight mail  
23 to him or delivered to him. They're disks.

24 Anything else, Mr. Zuckerman, before we  
25 adjourn?

1           MR. ZUCKERMAN: Yeah, I do have one  
2 question, your Honor. Are you ruling that the City has  
3 to enter into a confidentiality provision as to the use  
4 of the Kings County D.A. documents given your Honor's  
5 order that Mr. Dee may turn them over to David Ranta?

6           THE COURT: That was a complete non  
7 sequitur. I said that you must turn them over to Mr.  
8 Dee. I didn't say that you must do anything else.

9           MR. ZUCKERMAN: Then could there at least be  
10 an order to Mr. Dee to turn over the documents to us --

11          THE COURT: He said he would.

12          MR. ZUCKERMAN: -- so that we can use them?

13          THE COURT: He said he would.

14          MR. ZUCKERMAN: Okay, but I just want to be  
15 clear that the City is not bound to enter into a  
16 confidentiality provision as to these Kings County D.A.  
17 documents in order to receive them.

18          THE COURT: You know, again, I just  
19 suggested that you speak to each other about working  
20 this out for the plaintiff and the defendants in this  
21 action, which would not bind David Ranta because he's  
22 neither a plaintiff nor a defendant. You keep wanting  
23 to go back to reiterate. I can't require the parties  
24 to enter into this agreement. I suggest that the  
25 protective order will cover the disclosure of these

1 records, which will be obtained from the D.A.'s office,  
2 and that both Priscilla, Nicholas, and Patricia Ranta  
3 and the defendants, and the two named defendants, will  
4 enter into some sort of confidentiality order. But I  
5 have not ordered you to sign something and I have not  
6 ordered Mr. Dee to sign something.

7 MR. ZUCKERMAN: Then, your Honor, I would  
8 request that when Mr. Dee get those disks, that they be  
9 immediately provided to defendants' counsel.

10 THE COURT: Mr. Zuckerman, you haven't given  
11 to him yet. If he doesn't give them to you, I'm sure  
12 you know where to write. You're talking about he must  
13 immediately do X and Y and you haven't done anything.  
14 And you wrote to the Court on the 10<sup>th</sup> and said you  
15 would produce those documents within two weeks. It's  
16 hubris for you to raise that to me now. Try to work  
17 this out with Mr. Dee. He cannot sign away Mr. David  
18 Ranta's rights. He's getting these documents for the  
19 purpose of his clients, Patricia, Nicholas, and  
20 Priscilla.

21 Anything else, Mr. Zuckerman?

22 MR. ZUCKERMAN: No, your Honor.

23 THE COURT: Anything else, Mr. Ha?

24 MR. HA: No, Judge, thank you.

25 THE COURT: Then this matter is adjourned.

1 Happy holiday, everybody.

2 MR. HA: Thank you, Judge.

3 THE COURT: I'll put out an order. Thank  
4 you.

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18 I certify that the foregoing is a correct  
19 transcript from the electronic sound recording of the  
20 proceedings in the above-entitled matter.  
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A rectangular box containing a handwritten signature in black ink. The signature appears to be 'E. Barron' with a stylized, cursive script.

25 ELIZABETH BARRON

December 10, 2020